

AMENDED IN ASSEMBLY JUNE 8, 2004

AMENDED IN SENATE MAY 4, 2004

AMENDED IN SENATE APRIL 28, 2004

AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1336

Introduced by Senator Burton
(Principal coauthor: Senator Brulte)
(Coauthor: Senator Battin)
(Coauthors: Assembly Members Bogh and Kehoe)

February 18, 2004

An act to add Section 1638.1 to the Business and Professions Code, relating to oral and maxillofacial surgery, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1336, as amended, Burton. Oral and maxillofacial surgery.

Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dentistry by the Board of Dental Examiners. Existing law requires all funds received under the act to be placed in the State Dentistry Fund, which is continuously appropriated.

This bill would, ~~commencing July 1, 2006~~, require ~~that a licensee~~ *a person who is licensed to practice dentistry who is not a physician and surgeon* to apply for and receive a permit to perform elective facial cosmetic surgery prior to performing elective facial cosmetic surgery. The bill would also, ~~commencing July 1, 2006~~, require an applicant for a permit to furnish specified information and to pay an application fee

of \$150. The bill would prohibit a licensee from performing such a surgery procedure, except at certain specified health facilities.

The bill would authorize the board to adopt regulations related to the permits, and would require the board to appoint ~~an advisory committee to obtain recommendations regarding the regulations~~ *a credentialing committee to review applicant qualifications and recommend whether or not to issue a permit to the applicant.*

Because this bill would increase the amount of fees deposited in the State Dentistry Fund, a continuously appropriated fund, it would make an appropriation.

Because a willful violation of this bill's provisions would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1638.1 is added to the Business and
- 2 Professions Code, to read:
- 3 1638.1. (a) (1) A person licensed pursuant to Section 1634
- 4 who wishes to perform elective facial cosmetic surgery shall first
- 5 apply for and receive a permit to perform elective facial cosmetic
- 6 surgery from the board.
- 7 (2) A permit issued pursuant to this section shall be valid for a
- 8 period of five years and must be renewed by the permitholder in the
- 9 same manner required for initial issuance.
- 10 (b) The board may adopt regulations for the issuance of the
- 11 permit that it deems necessary to protect the health, safety, and
- 12 welfare of the public.
- 13 (c) A licensee may obtain a permit to perform elective facial
- 14 cosmetic surgery by furnishing all of the following information on
- 15 an application form approved by the board:



(1) Proof of successful completion of an oral and maxillofacial surgery residency program accredited by the Commission on Dental Accreditation of the American Dental Association.

~~(2) Proof of other qualifications and training established by regulation by the board, as it deems necessary to protect the public.~~

(2) *Proof that the applicant has satisfied the criteria specified in either subparagraph (A) or (B):*

(A) (i) *Is certified, or is a candidate for certification, by the American Board of Oral and Maxillofacial Surgery.*

(ii) *Submits to the board a letter from the program director of the accredited residency program, or from the director of a postresidency fellowship program accredited by the Commission on Dental Accreditation of the American Dental Association, stating that the licensee has the education, training, and competence necessary to perform the surgical procedures that the licensee has notified the board he or she intends to perform.*

(iii) *Submits documentation to the board of at least 10 operative reports from residency training or proctored procedures that are representative of procedures that the licensee intends to perform from both of the following categories:*

(I) *Cosmetic contouring of the osteocartilaginous facial structure, which may include, but is not limited to, rhinoplasty and otoplasty.*

(II) *Cosmetic soft tissue contouring or rejuvenation, which may include, but is not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation.*

(B) (i) *Has been granted privileges by the medical staff at a licensed general acute care hospital to perform the surgical procedures at that hospital.*

(ii) *Submits to the board the documentation described in clause (iii) of subparagraph (A).*

(3) *Proof that the applicant is on active status on the staff of a general acute care hospital and maintains the necessary privileges based on the bylaws of the hospital to maintain that status.*

(d) The application shall be accompanied by an application fee of one hundred and fifty dollars (\$150).

~~(e) (1) The board shall appoint an advisory a credentialing committee to obtain recommendations concerning the need for, and the content of, regulations authorized by subdivision (b), by paragraph (2) of subdivision (c), and by subdivision (g). The~~

~~1 advisory committee shall make recommendations to the board
2 within six months of being appointed. These recommendations
3 shall include, but shall not be limited to, all of the following:~~

~~4 (A) The qualifications and training that an applicant for a
5 permit should have.~~

~~6 (B) The number and types of surgical cases that an applicant
7 should submit to the board to establish his or her ability to perform
8 cosmetic surgery.~~

~~9 (C) The credentialing process that the board should employ in
10 evaluating the information provided by the applicant.~~

~~11 (D) The scope and extent of procedures that would be
12 authorized by the permit for a particular applicant.~~

~~13 (E) The scope and extent of procedures that are authorized
14 pursuant to Section 1625, including procedures related to
15 “associated structures.”~~

~~16 (2) The advisory committee shall include the members that the
17 board deems appropriate, and shall include, at a minimum, the
18 following members:~~

~~19 (A) A board certified oral and maxillofacial surgeon.~~

~~20 (B) A board certified plastic and reconstructive surgeon.~~

~~21 (C) A board certified otolaryngologist.~~

~~22 (D) A physician and surgeon who sits on a surgical
23 credentialing committee at a general acute care hospital. review
24 the qualifications of each applicant for a permit. Upon completion
25 of the review of an applicant, the committee shall make a
26 recommendation to the board on whether to issue or not issue a
27 permit to the applicant, and on the terms or extent of the permit.~~

~~28 (2) The credentialing committee shall be comprised of five
29 members, as follows:~~

~~30 (A) A physician and surgeon with a specialty in plastic and
31 reconstructive surgery who maintains active status on the staff of
32 a licensed general acute care hospital in this state.~~

~~33 (B) A physician and surgeon with a specialty in otolaryngology
34 who maintains active status on the staff of a licensed general acute
35 care hospital in this state.~~

~~36 (C) Three oral and maxillofacial surgeons licensed by the
37 board who are board certified by the American Board of Oral and
38 Maxillofacial Surgeons, and who maintain active status on the
39 staff of a licensed general acute care hospital in this state, at least
40 one of whom shall be licensed as a physician and surgeon in this~~

1 *state. Two years after the effective date of this section, any oral and*
2 *maxillofacial surgeon appointed to the committee who is not*
3 *licensed as a physician and surgeon shall hold a permit pursuant*
4 *to this section.*

5 (3) The board shall solicit from the following organizations
6 input and recommendations regarding members to be appointed to
7 ~~the advisory credentialing committee:~~

8 (A) The Medical Board of California.

9 (B) The California Dental Association.

10 (C) The California Association of Oral and Maxillofacial
11 Surgeons.

12 (D) The California Medical Association.

13 (E) The California Society of Plastic Surgeons.

14 (F) Any other source that the board deems appropriate.

15 ~~(4) The board shall make its appointments not later than May~~
16 ~~1, 2005, but may commence its appointment process at any time~~
17 ~~prior to that date under any authority the board has to do so prior~~
18 ~~to the effective date of this section.~~

19 ~~(5) Nothing in this subdivision shall preclude the board from~~
20 ~~adopting regulations for the issuance of the cosmetic surgery~~
21 ~~permit authorized by this section if the advisory committee fails~~
22 ~~to make recommendations under paragraph (1).~~

23 (4) *The credentialing committee shall meet at a time and place*
24 *directed by the board to evaluate applicants for permits. A quorum*
25 *of three members shall be required for the committee to consider*
26 *applicants and make recommendations to the board.*

27 (f) A licensee may not perform any elective, facial cosmetic
28 surgical procedure except at a general acute care hospital, a
29 licensed outpatient surgical facility, or a surgery center or office
30 surgical facility accredited by the Joint Commission on
31 Accreditation of Healthcare Organizations (JCAHO), by the
32 American Association for Ambulatory Health Care (AAAHC), by
33 the Medicare program, ~~or by another accrediting body either~~
34 ~~determined by the board to be equivalent to those organizations,~~
35 or approved by the Medical Board of California pursuant to
36 subdivision (g) of Section 1248.1 of the Health and Safety Code.

37 (g) For purposes of this section, the following terms have the
38 following meanings:

39 (1) “Elective cosmetic surgery” means any procedure defined
40 as cosmetic surgery in subdivision (d) of Section 1367.63 of the

1 Health and Safety Code, and excludes any procedure that
2 constitutes reconstructive surgery, as defined in subdivision (c) of
3 Section 1367.63 of the Health and Safety Code, ~~unless that surgery~~
4 ~~is otherwise within the scope of practice of the licensee, as defined~~
5 ~~in Section 1625 and any regulations adopted pursuant to that~~
6 ~~section by the board.~~

7 (2) “Facial” means those ~~conditions and~~ regions of the human
8 body described in Section 1625 and in any regulations adopted
9 pursuant to that section by the board.

10 ~~(h) Subdivisions (a), (c), (d), (f), and (g) shall become~~
11 ~~operative on July 1, 2006.~~

12 *(h) A holder of a permit issued pursuant to this section shall not*
13 *perform elective facial cosmetic surgical procedures unless he or*
14 *she has malpractice insurance or other financial security*
15 *protection that would satisfy the requirements of Section 2216.2.*

16 *SEC. 2. No reimbursement is required by this act pursuant to*
17 *Section 6 of Article XIII B of the California Constitution because*
18 *the only costs that may be incurred by a local agency or school*
19 *district will be incurred because this act creates a new crime or*
20 *infraction, eliminates a crime or infraction, or changes the penalty*
21 *for a crime or infraction, within the meaning of Section 17556 of*
22 *the Government Code, or changes the definition of a crime within*
23 *the meaning of Section 6 of Article XIII B of the California*
24 *Constitution.*

